

REMARKS

In response to the Final Office Action mailed on January 4, 2011 ("the Office Action"), Applicants file this Amendment after Final merely to cancel the claims reciting the average particle size range of 0.5 μm to 10 μm . No further amendments are made in this paper.

Although Applicants disagree with the Examiner's position with respect to this range, Applicants wish to appeal the final rejections of claims reciting the 10 nm to 35 nm average particle size range. Accordingly, Applicants cancel claims 8-10 and 76-109. Applicants respectfully request entry of this Amendment. The pending claims directed to the 10 nm to 35 nm range include claims 1, 3, 4, 6, 7, 14, 15, 19, 20, 22, 23, 27-36, 38-40, 42-48, and 50-52. Claims 2, 5, 11-13, 16-18, 21, 24-26, 37, 41, 49, and 53-75 remain canceled.

Applicants are concurrently filing a Pre-appeal Brief Request for Review and a Notice of Appeal with this Amendment. Per Applicants' arguments in their response of October 28, 2010, and in their Pre-appeal Brief Request, the pending claims are patentable because Bartrug in view of Girgis does not teach or suggest the claimed average particle size ranges of 10 nm to 35 nm. Accordingly, Applicants submit that the Examiner has not established a prima face case of obviousness. Applicants reserve the right to file continuation applications to any or all of the canceled claims.

Please grant any additional extensions of time required to enter this Amendment
and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

A handwritten signature in black ink, appearing to read "M. Sweet", written over a horizontal line.

Dated: June 6, 2011

By: _____
Mark D. Sweet
Reg. No. 41,469